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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/726,886	12/03/2003	Sheng Chung Hung	SW8809US	5374

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EXAMINER

STASHICK, ANTHONY D

ART UNIT

PAPER NUMBER

3728

DATE MAILED: 05/17/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/726,886	HUNG, SHENG CHUNG	
	<b>Examiner</b>	<b>Art Unit</b>	
	Anthony Stashick	3728	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-4 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 03 December 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☒ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |  |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)            |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date ____ | 6) <input type="checkbox"/> Other: ____  |

## DETAILED ACTION

### *Claim Rejections - 35 USC § 103*

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Charles 6,151,803 in view of Wong 5,832,634. Charles '803 discloses all the limitations of the claims including the following: inner sole plate being made of an electrically insulating material (polymer fiber), including a top surface formed with a concavity (see Figures 1 and 9B) for firmly contacting and supporting a wearer's foot sole; a bottom surface having curved configuration at a periphery thereof (see Figure 9B); inner sole plate further including first, second and third plate bodies (see Figures 1, 2 and 6) positioned in longitudinal sequence correspondence to a shape of the wearer's foot sole; the first plate body including connecting portion 10CA having a recess at an end of the first plate body adjacent the second plate body; the second plate body including first connecting portion (at 10CA of second plate connected to first plate) having an extension at a first end the second plate body corresponding to the connecting portion of the first plate body (extensions best seen in Figures 2A and 7A); predetermined clearance (shown in Figures 2B, 2C, 7A) being defined in the top surface of the plate between end of the recess and an end of the extension; a pair predetermined spaces (see Figure 7A) being defined in the bottom surface the plate at respective side margins thereof; each space between the connecting portion first plate body and the first connecting portion of the second plate body (see Figure 7) and the two connecting portions contacting each other at a middle portion thereof (see Figure 7); and the second plate body including a second connecting portion having a recess at a second end of the second plate

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body opposite to the first end thereof (see Figures 1 and 7); the third plate body including a connecting portion having an extension at a first end of the third plate body adjacent to the second plate body (see figures 1 and 7, same as that between first and second plate); a predetermined clearance being defined in the top surface between an end of the recess and an end of the extension (same as with first and second plate); a pair of predetermined spaces being defined in the bottom surface of the plate at respective side margins thereof (same as second plate noted above); each space between the second connecting portion of the second plate body and the connecting portion of the third plate body (see Figures 1 and 7); the two connecting portions contacting each other at a middle portion thereof (see Figure 7 as noted with respect to first and second plate above); the first, second and third plate bodies thereby being pivotal with respect to the one adjacent thereto to conform with a bending movement of the wearer's foot sole (see Figures 2 and 3); the third plate body further including a recess formed in a lower part of a second end thereof opposite to the first end thereof for engaging a rim of a rigid plastic shoe head (see Figure 7); connecting portion of the first plate body, the first and second connecting portions of the second plate body and the connecting portion of the third plate body comprise a laterally extending rounded bottom end surface, respectively (see Figure 2C, front portion is rounded). Charles '803 does not teach the inner sole plate and shoe head being made of rigid plastic and thermosetting resin with reinforcing fibers. Wong '634 teaches that an inner sole protective plate can be made of fibers impregnated with thermosetting resin to help hold the fibers together and form a solid plate that has some flexibility. Therefore, it would have been obvious, to one of ordinary skill in the art at the time the invention was made, to make the inner sole of Charles '803 out of fiber impregnated with thermosetting resin, as taught by Wong '634, to add strength to the inner sole while making it lighter in weight and still providing protection to puncture to the user's foot. With respect to the plastic issue, the combination of fiber and thermosetting resin is a teaching of making the plate plastic.

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3. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied above in view of Dykeman 4,735,003. The references as applied above disclose all the limitations of the claims except for the shoe head being a metal product. Dykeman '003 teaches that it is well known to make toe protectors, i.e. shoe heads, out of metal to protect the user's foot from heavy objects and to replace that metal with plastic. Therefore, it would have been obvious, to one of ordinary skill in the art at the time the invention was made, to make any toe protector associated with the plate of the references as applied above, out of metal to protect the user's toes from heavy objects without the toe protector giving way and injuring the user's toes.

#### ***Priority***

4. Acknowledgment is made of applicant's claim for foreign priority based on an application filed in Taiwan on May 6, 2003. It is noted, however, that applicant has not filed a certified copy of the Taiwanese application as required by 35 U.S.C. 119(b).

#### ***Conclusion***

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure and are cited on the 892 enclosed herewith.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Anthony Stashick whose telephone number is 571-272-4561. The examiner can normally be reached on Monday through Thursday from 8:30 am until 4:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mickey Yu can be reached on 571-272-4562. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Anthony Stashick  
Primary Examiner  
Art Unit 3728

ADS